

Draft! Feedback welcome!
See below for background

One-minute version - at the hearing

Thank you for the opportunity to speak today.

I'm Jon Pincus from Bellevue, a technologist and entrepreneur, and former General Manager of Strategy Development at Microsoft. I OPPOSE SB 5062 in its current form for a variety of reasons. My comments today focus on the fiscal aspects, where Ways & Means has an opportunity to IMPROVE the bill.

The current fiscal note fails to allocate sufficient resources for enforcement. Compare its paltry \$1.4 million budget for the next two years to Ireland's [\\$23 million annual budget](#). Allocations then DECREASE in future years.

While SB 5062 does reserve any receipts from civil penalties under this act for recovering costs and attorney's fees, the fiscal note projects this as not generating any cash through 2027.

Ways & Means should resolve this fiscal problem by taking the AGO's suggestion of allowing a private right of action.

Otherwise, SB 5062 will require substantial additional investment if we are to have any hope of holding companies who break the law accountable.

Thank you again for the opportunity to speak. I'll follow up with more detailed written testimony.

Followon email

Madame Chair, Ranking Member, and members of the committee,

Thank you once again for the opportunity to speak at today's hearing on SB 5062. In my written testimony, I'd like to expand on the points I made. This testimony is also available online at <https://jedii.tech/sb-5026-testimony-for-the-ways-means-hearing-fe/> with links to references.

I'm Jon Pincus from Bellevue, a technologist and entrepreneur, and former General Manager of Strategy Development at Microsoft.

I continue to OPPOSE SB 5062 as currently written. My testimony and followup letter to ENET, and lengthy discussion in "[The Illusion of Protection](#)," cover a wide variety of issues. My comments here focus on the fiscal aspects, where Ways & Means has an opportunity to improve the legislation.

SB 5062's current fiscal note fails to allocate sufficient resources for enforcement. Section 111 of the bill gives the Attorney General's Office (AGO) sole enforcement authority -- but the paltry \$1.4 million budget for the next two years is only enough for 3.6 full-time equivalent employees (FTEs) and three investigations per year. Allocations then **decrease** in future years.

Contrast this with Ireland, whose data protection commission has a [\\$23 million annual budget](#) despite having a population smaller than Washington state. The German state of Schleswig-Holstein, half the population of Washington, has a staff of 25 in its [data protection office](#). [Even tiny Luxembourg allocates over \\$8 million/year](#).

Despite these much larger allocations, [European data protection enforcement has been held back by lack of resources](#). As you heard at the hearing, Facebook has 150 privacy lawyers. Large companies average at least 15. Just last week, [an EU commission called for the European Commission to sued the Irish DPC for failing to enforce the GDPR](#).

While SB 5062 does reserve any receipts from civil penalties under this act for recovering costs and attorney's fees, the fiscal note projects this as not generating any cash through 2027.

California's experience is instructive here. [In the only case settled so far under their 2018 CCPA](#), the settlement gave \$2 to each person who had been harmed, but did not impose any additional civil penalties. California's newer CPRA allocates an annual budget starting at \$10 million / year, which must be increased by the legislature "as may be necessary to carry out the provisions of this title." (The CPRA also *removed* the right to cure, a topic several other speakers at the hearing discussed.)

Ways and Means can resolve this fiscal problem by taking the AGO's suggestion of allowing a private right of action. Some specific changes to consider:

- Replace Section 111 with [HB 1433](#)'s Section 10 (1)
- Remove the word "solely" from Section 112 (1)

Otherwise, SB 5062 will require substantial additional investment if we are to have any hope of holding companies who break the law accountable.

Thank you all for your continued work on this bill (and all the others on your plate). I firmly believe that we share the same goal of protecting Washingtonians' privacy, and am looking forward to ongoing discussions as SB 5062 moves forward.

Jon Pincus

Background

SB 5062, which I call the “Bad Washington Privacy Act”, is a weak corporate-funded bill. The Tech Equity Coalition supports the much better People's Privacy Act. Despite scathing criticism from civil liberties and community groups, SB 5062 sailed through the EET Committee and is now in Ways and Means.

The Senate Ways and Means Committee looks at bills with operating budget fiscal impacts, so for this hearing that's what we're focusing our testimony on.

You can find out more about what's wrong with SB 5062, and why we support the People's Privacy Act, in

- [The People's Privacy Act, not the Washington Privacy Act, is the better bill to protect consumers' civil rights and civil liberties](#) an op-ed by Jennifer Lee of ACLU of Washington, is a great overview.
- [Comparison between the People's Privacy Act and SB 5062](#) is a high-level look at some of the differences between these bills
- [The illusion of protection and the Bad Washington Privacy Act \(SB 5062\)](#) goes into detail on the problems

Soundtrack

Concrete Blonde's [bloodletting](#), of course! As they say:

Got the Ways and Means,

On my computer screen,

Sound out the committee,
See which way they'll lean.

Gonna Zoom on in,
And look around,
We've got a lot to think about.
Oh yeah.

Well maybe I didn't get the lyrics quite right, but close enough. [Oh yeah.](#)